

# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | [www.mercerisland.gov](http://www.mercerisland.gov)



### Pre-Application Meeting (PRE23-068)

*An Intake Screening is required in addition to a Pre-Application Meeting. A Pre-Application Meeting does not replace the required Intake Screening. This meeting is to provide guidance and information include prior to formal submittal.*

*Pursuant to MICC 19.15.050(A) Purpose. Meetings with the staff provide an opportunity to discuss the proposal in concept terms, identify the applicable city requirements and the project review process. Meetings or correspondence with the neighborhood to inform the neighborhood of the project proposal are encouraged prior to the formal notice provided by the city.*

*Pursuant to MICC 19.15.050(E) Validity. Successful completion of a preapplication meeting does not constitute approval of any plan or design. Preapplication meetings shall occur within one year of application submittal, or after a code change affecting the application has occurred.*

<b>Summary:</b> Feasibility to short plat existing lot into 3-lots. See narrative for additional information.			
<b>Site Location:</b>	5330 Butterworth Road	<b>Parcel Number</b>	8661400040
<b>Lot Size:</b>	82,328 square feet	<b>Zoning:</b>	R-15 (Single Family)
<b>Brief Project Description:</b>	The applicant is proposing a three-lot short subdivision. Since the first Pre-application meeting, the applicant met on-site with an Ecologist to verify the stream typing and confirm no other on-site wetlands. Due to the existing lot constraints, and the desire to keep some of the existing structures (a portion of the house, attached garages, Sports Pavilion), we have reconfigured the lot layout to 3 lots – instead of 4.	<b>Documents Provided:</b>	<ol style="list-style-type: none"> <li>1. Pre-App Form;</li> <li>2. Site Plan;</li> <li>3. House footprint calcs; and</li> <li>4. Narrative Questions.</li> </ol>
<b>Applicant Information:</b>			
<b>Name:</b> Roger Macpherson -or- Dan Buchser Macpherson Construction & Design, LLC		<b>Email:</b> <a href="mailto:roger@macphersonconstruction.com">roger@macphersonconstruction.com</a> <a href="mailto:dan@macphersonconstruction.com">dan@macphersonconstruction.com</a>	<b>Phone:</b> 425-391-3333
<b>Second Pre-application Meeting Required:</b>	Not Applicable	Click for explanation if necessary	

### Applicant Questions:

#### 1. STREAM BUFFER

- Much of the existing house is legally non-conforming withing the stream buffer/setback. Pursuant to MICC 19.01.050(D)(1)(b) we are proposing to remove/alter no more than 40% of the existing nonconforming walls. Due to the massive size of the existing house (645 lf of perimeter walls) we are intentionally omitting portions of the structure outside of the stream setback in our

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calculations. Please verify calcs are correct and that the remaining portion of the existing house will be legal.

- b. Explain the process and required permits for stream buffer averaging.
- c. Does buffer replacement need to be outside the 25' Shoreline buffer?

**Staff Response:** Pursuant to [MICC 19.15.050](#)(A) Pre-application meetings with the staff provide an opportunity to discuss the proposal in concept terms, identify the applicable city requirements and the project review process. Staff will verify calculations for accuracy during the formal application process, but they appear to be consistent with the code requirements.

**Staff Response:** If more than 40% of the house's exterior walls are demolished, the remainder of the house will need to comply with current standards (including those related to not being in watercourse buffers).

Pursuant to [MICC 19.01.050](#)(D)(1)(b) the following may apply:

Intentional exterior alteration or enlargement.

- i. Detached single-family dwelling. A legally nonconforming detached single-family dwelling may be intentionally altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of the length of the dwelling's existing exterior walls, excluding attached accessory buildings, is structurally altered. **Any portion of the length of existing walls that is structurally altered shall be included in calculating the 40 percent threshold. In no event shall the alteration or enlargement increase any existing nonconforming aspect of the dwelling or create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40 percent threshold is exceeded. An increase in height of that portion of a structure that is legally nonconforming because it intrudes into a required yard is an increase in the nonconformity and is not allowed unless the additional height meets the current yard requirements of MICC 19.02.020(C)(1) except:**
  - (a) A change from a flat roof to a pitched roof is allowed under MICC 19.02.020(C)(3)(a); and
  - (b) A height increase of a single-family dwelling and any accessory building or structure in the R-8.4 zone that is legally nonconforming because it intrudes into a minimum five-foot required side yard is allowed only if the additional height is modulated so that it is a minimum of ten feet from the side yard property line.
- ii. Accessory buildings or structures. A legally nonconforming attached or detached accessory building or structure, including but not limited to a carport, garage, shed, gazebo, deck or fence, may be altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of its existing exterior perimeter (or length in the case of a fence) is structurally altered. A wall that is shared with the main dwelling shall not be included in the calculation for the attached accessory building. In no event shall any alteration or enlargement increase any existing nonconforming aspect of the building or structure or create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40 percent threshold is exceeded.

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- iii. Structural alteration calculation. For the purposes of determining the percentage of exterior walls of a nonconforming structure that is being structurally altered, the following calculation applies:

Formula: Percentage of exterior walls altered = (sum of the length of existing exterior walls to be structurally altered) ÷ (sum of the length of existing exterior walls)

Where:

- (a) The "sum of the length of existing exterior walls to be structurally altered" is the sum of each wall segment that is completely demolished.
  - (b) The "sum of the length of exterior walls" is the sum of the lengths of each exterior wall segment of a structure or building.
  - (c) For the purposes of this subsection, a wall segment is "completely demolished" when any portion of the wall is completely removed, such that no structural elements remain.
  - (d) For the purposes of this subsection, the "wall segment" is the horizontal length of each continuous exterior wall plane or façade; provided, that each building modulation (e.g., a bay window bump-out) shall be accounted for as a separate exterior wall plane. For example, the sum of the length of the exterior wall segments for a building that is a perfect cube with a dimension of 50 horizontal feet on each side of the house is 200 feet. The same building with a second story bay window bump-out dimensioned two feet by ten feet by two feet has a sum of 214 feet.
- iv. Roof repair and replacement. The roof of a nonconforming structure may be repaired including total replacement; provided, that there is no expansion of any existing nonconformity. Repair or replacement of a roof does not constitute structural alteration of exterior walls.
- v. Cumulative time limit. The maximum cumulative structural alteration of a legally nonconforming structure, as described in subsections (D)(1)(b)(i) and (ii) of this section, is 40 percent within any five-year period. The five-year period includes the cumulative total of the work authorized by a permit application, and the work conducted within the five years immediately prior to demolition or construction authorized by the permit application. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the cumulative 40 percent threshold is exceeded within the five-year time limit.

**Staff Response:** A critical area 2 (CAR2) will be required for buffer averaging or reduction. See [MICC 19.07.090\(B\)](#) for the CAR2 process. See [MICC 19.07.180\(C\)\(4\)](#) for buffer averaging requirements and [MICC 19.07.180\(C\)\(5\)](#) for buffer reduction requirements.

**Staff Response:** Based on the location of the watercourse the buffer replacement may need to be within the shoreline buffer. Please consult your qualified professional to make that determination. Plans and critical area studies must reflect the requirements, location, and methodology used to utilize these provisions. You don't just get to pick a spot along the watercourse and add/or replace the buffer.

## 2. LOT WIDTH – (MICC 19.16.010)

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- a. For Lot 3 - Confirm that lot width is measured from access easement and property lines.
- b. Confirm Lot Width measurements for Lot 1 & Lot 2.

**Staff Response:** Pursuant to [MICC 19.16.010](#), Lot depth: For lots with exactly one front lot line, one rear lot line, and two side lot lines, lot depth is the distance as measured from the midpoint of the front property line to the midpoint of the rear property line. For all other lots, lot depth is determined by the mean average distance measured from the front lot line to the rear lot line. To calculate mean average distance, draw lines perpendicular to the front property line at two-foot intervals. The lengths of the perpendicular lines, which extend through the building pad to the rear lot line, shall be added together and the sum of the lengths shall be divided by the total number of perpendicular lines.

**Staff Response:** Pursuant to [MICC 19.16.010](#), Lot width: For lots with exactly one front lot line, one rear lot line, and two side lot lines, lot width is the distance between the two midpoints of side lot lines. For all other lots, lot width is determined by a lot width circle within the boundaries of the lot; provided, that no access easements are included within the lot width circle.

**Staff Response:** Nothing in the definition of width mentions **setback from access easement?** Use the property line. Lots 1 and 2 appear to be correct.

### 3. YARDS & SETBACKS

- a. Confirm locations and dimensions of ALL setbacks/yards (**existing non-conforming structures in setback**)
- b. Confirm front yard for Lot 3 is measured from access easement not property line.
- c. Lot 3 – Along Fire Access Driveway, at what point would Front Yard transition to side yard as it extends to Lot 2?

**Staff Response:** Pursuant to MICC 19.02.020(C),

#### C. Yard requirements.

- 1. Minimum. Except as otherwise provided in this section, each lot shall have front, rear, and side yards not less than the depths or widths following:
  - a. Front yard depth: 20 feet or more.
  - b. Rear yard depth: 25 feet or more.
  - c. Side yards shall be provided as follows:
    - i. Total width.
      - a. For lots with a lot width of 90 feet or less, the sum of the side yards' width shall be at least 15 feet.
      - b. For lots with a lot width of more than 90 feet, the sum of the side yards' width shall be a width that is equal to at least 17 percent of the lot width.
    - ii. Minimum side yard width. The minimum side yard width is five feet or 33 percent of the aggregate side yard total width, whichever is greater.
    - iii. Variable side yard depth requirement. For lots with an area of 6,000 square feet or more, the minimum side yard depth abutting an interior lot line shall be the greater of the minimum side yard depth required under subsection (C)(1)(c)(ii) of this section, or as follows:
      - a. Single-family dwellings shall provide a minimum side yard depth of seven and one-half feet if the building:

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1. For nongabled roof end buildings, the height is more than 15 feet measured from existing or finished grade, whichever is lower, to the top of the exterior wall facade adjoining the side yard; or

2. For gabled roof end buildings, the height is more than 18 feet measured from existing or finished grade, whichever is lower, to the top of the gabled roof end adjoining the side yard.

b. Single-family dwellings with a height of more than 25 feet measured from the existing or finished grade, whichever is lower, to the top of the exterior wall facade adjoining the side yard shall provide a minimum side yard depth of ten feet.

## 2. Yard determination.

### a. Front yard.

i. Front yard — General. For lots that are not corner lots or waterfront lots, the front yard shall extend the full width of the lot and is determined using the following sequential approach, in descending order of preference, until a front yard is established:

(a) The yard abutting an improved street from which the lot gains primary access.

(b) The yard abutting the primary entrance to a building.

(c) The orientation of buildings on the surrounding lots and the means of access to the lot.

ii. Front yard — Corner lots. On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot abutting a street shall be a side yard; provided:

(a) If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard.

iii. Front yard — Waterfront lots. On a waterfront lot, regardless of the location of access to the lot, the front yard may be measured from the property line opposite and generally parallel to the ordinary high water line.

iv. This section shall apply except as provided for in MICC 19.08.030(F)(1).

b. Rear yard. Except as allowed in subsections (C)(2)(a)(ii) and (iii) of this section, the rear yard is the yard opposite the front yard. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch. If this definition does not establish a rear yard setback for irregularly shaped lots, the code official shall establish the rear yard based on the following method: The rear yard shall be measured from a line or lines drawn from side lot line(s) to side lot line(s), at least ten feet in length, parallel to and at a maximum distance from the front lot line.

ii. c. Side yard. Any yards not designated as a front or rear yard shall be defined as a side yard.

## 3. Intrusions into required yards.

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- a. Minor building elements.
    - i. Except as provided in subsection (C)(3)(a)(ii) of this section, porches, chimney(s) and fireplace extensions, window wells, and unroofed, unenclosed outside stairways and decks shall not project more than three feet into any required yard. Eaves shall not protrude more than 18 inches into any required yard.
    - ii. No penetration shall be allowed into the minimum side yard setback abutting an interior lot line except where an existing flat-roofed house has been built to within 18 inches of the interior side yard setback line and the roof is changed to a pitched roof with a pitch of 2:12 or steeper, eaves may penetrate up to 18 inches into the side yard setback.
  - b. Hardscape and driveways. Hardscape and driveways not more than 30 inches above existing grade or finished grade, whichever is lower, may be located in any required yard; provided, that driveways may exceed the 30-inch limit when a permit applicant demonstrates the proposed height is the minimum feasible to meet the standards in MICC 19.09.040.
  - c. Fences, retaining walls and rockeries. Fences, retaining walls and rockeries are allowed in required yards as provided in MICC 19.02.050.
  - d. Garages and other accessory buildings. Garages and other accessory buildings are not allowed in required yards, except as provided in MICC 19.02.040.
  - e. Heat pumps, air compressors, air conditioning units, and other similar mechanical equipment. Heat pumps, air compressors, air conditioning units, and other similar mechanical equipment may be located within any required yard provided they will not exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within three feet of any lot line.
  - f. Architectural features. Detached, freestanding architectural features such as columns or pedestals that designate an entrance to a walkway or driveway and do not exceed 42 inches in height are allowed in required yards.
  - g. Other structures. Except as otherwise allowed in this subsection (C)(3), structures over 30 inches in height from existing grade or finished grade, whichever is lower, may not be constructed in or otherwise intrude into a required yard.
4. Setback deviation. The code official may approve a deviation to front, side, and rear setbacks pursuant to MICC 19.15.040.

#### 4. TREES

**a. With the stream buffer/setback encroaching onto Lot 2, we are proposing to remove the (3) cottonwoods near the NE corner of the lot so we can locate the proposed house further away from the stream buffer.**

#### Staff Response:

1. You will be required to save 30% of all large, regulated trees and any exceptional trees over 24" in diameter. Please provide a plan with these trees indicated along with their Arborist given driplines.

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2. Show the different options for lot line placements that retain the largest number or best suitable for retention exceptional trees. (is an east/west or north/south configuration best for tree retainage?)
3. Determine the allowed setbacks and maximum gross floor area for each lot and configure the building pad to best avoid any exceptional trees and retain 30% of large trees (what building can fit without encroaching into exceptional trees dripline). You may need to modify the traditional rectangle building pad to accommodate for exceptional trees dripline.
4. You must make the case in a narrative and plan showing you have followed these steps.
5. You may only remove the exceptional tree after this exercise takes place and you find, retaining the tree would limit the constructible gross floor area to less than 85% of the maximum gross floor area.

## 5. DOCK

### a. Does the stream buffer/setback impact the dock location?

**Staff Response:** Yes. Dock can not be in the buffer or setback.

## 6. PERMIT PROCESS – How would the project phasing work? (discuss during meeting)

### a. Critical Areas Permit (discuss which type)

### b. Demo Permit

### c. Remodel Permit

### d. Short Plat Process

· Run Building Permit (Lots 2 & 3) concurrently w/ Short Plat

**Staff Response:** Will discuss during meeting.

## Review Comments:

### Fire Comments:

Fire Contact: [Jeromy.Hicks@mercerisland.gov](mailto:Jeromy.Hicks@mercerisland.gov) or 206-275-7966.

I have included some basic notes regarding the Fire Review and evaluation processes. Please see the below information. There are several hyperlinks that may be used to help guide you through this process.

All this information is consolidated in our [“Developer Manual-Guide”](#).

Applicant Questions regarding Fire Access:

1. [Fire access:](#)
  - a. Access roads (defined under IFC 202) under 500’ are required to be 20’ in width. For access roads over 500’ they are required to be 26’. IFC 503.2.1, D103.1, MICC 17.07.020)
  - b. Minimum driveway widths (for planning purposes) are outline in [MICC 19.09.040](#)
  - c. Grade shall not exceed 10%. Grades over 10% but under 20% (max) may be evaluated for code alternative requests. (IFC 503.2.7)

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- d. Length shall not exceed 150' from furthest portion of the building as one would walk. (IFC 503.2.1)
  - e. Surface shall be able to withstand and imposed load of 75,000 pounds and be constructed of asphalt. (If grade exceeds 15% this shall be brushed concrete) (IFC D102.1, MICC 19.09.040)
  - f. Fire access roads, private access roads, driveways in excess of 150' shall have provisions for fire apparatus turn-around as listed/illustrated in Appendix D of the IFC.
2. Fire Flow (Hydrants)
    - a. A hydrant capable of flowing the required fire flow as outline in the International Fire Code Appendix B shall be located within 300' of the furthest portion of the building (600') for a building with an approved sprinkler system. (IFC Appendix B)
  3. Sprinklers
    - a. All new construction and alterations over 50% valuation are required to install a minimum of a NFPA 13d fire sprinkler system.
    - b. Decreased fire flow, access, grade, or building size may required the installation of a NFPA 13r of 13 sprinkler system.
    - c. Water meter sizing is required for the install of a fire sprinkler system.
  4. Fire Alarm Systems
    - a. NFPA 72 Monitored Fire Alarm systems may be required as part of mitigation for deficiencies as listed above or may be proposed as a code alternative.
  5. Fire code alternatives
    - a. These may be considered upon application of a building permit. The building designer must propose such alternative and it must show how the alternative is equal to or above the required code.
    - b. Fire Code alternatives are not considered as a replacement for the fire code. The individual building applicant must show that the adopted prescriptive code may not be followed as a result of extenuating circumstances.
  6. Plat Map Wording Requirement:
    - a. Please provide the following statement on all Plat Map submittals:

**"All buildings are subject to meeting the current fire code requirements at the time of permit submittal. Access shall be provided as outlined in the International Fire Code Appendix D as adopted and/or amended and MICC 19.09.40. Fire plan reviews will be conducted at the time of building permit submittal and may require additional fire protection systems and/or fire prevention measures for permit approval."**

For additional information please refer to this helpful webpage:  
[https://www.mercerisland.gov/cpd/page/fire-permits-and-fire-prevention-information.](https://www.mercerisland.gov/cpd/page/fire-permits-and-fire-prevention-information)

### **Tree Comments:**

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Tree Contact: [John.Kenney@mercerisland.gov](mailto:John.Kenney@mercerisland.gov) or 206-275-7713.

1. Please refer to MICC 19.10 for our tree code.

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2. 30% of trees with a diameter of 10 inches or greater is required; additionally, development must be designed to minimize tree removal. Exceptional trees must also be protected. For this permit to be approved according to MICC19.10.060.
3. Replacement is required for any trees that are removed, according to the replacement ratios in MICC 19.10.070.
4. Tree protection (typically at tree dripline) of retained trees will be required. An arborist report and tree protection plan must be provided.

For shoreline development, please provide the following:

1. Please illustrate existing trees (type, diameter, driplines) located near the proposed development.
2. If there is a recent building permit for an addition or new house: if the property has a required shoreline planting plan per MICC 19.07.110(E)(9)(d), please illustrate the existing shoreline plantings and integrate the proposed vegetation with this project. (E)(9)(d) requires all development adding over 500sf of GFA or impervious surface requires a native shoreline vegetation plan.
3. Please provide a tree protection plan for all development that will impact regulated trees.

For additional information please refer to this helpful webpage:

<https://www.mercerisland.gov/cpd/page/tree-permits>.

### Civil Engineering Comments:

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Civil Contact: [Ruji.Ding@mercerisland.gov](mailto:Ruji.Ding@mercerisland.gov) or 206-275-7703.

1. Please refer to MICC Title 15 for our Water, Sewers, and Public Utilities code.

For more information on Stormwater Permits please visit here:

<https://www.mercerisland.gov/cpd/page/stormwater-permits>

### Planning Comments:

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Planning Contact: [ryan.harriman@mercerisland.gov](mailto:ryan.harriman@mercerisland.gov) or 206-275-7717.

### RESIDENTIAL DESIGN STANDARDS

#### **MICC 19.02.020 Development standards.**

##### A. *Minimum net lot area.*

**R-15: The net lot area shall be at least 15,000 square feet. Lot width shall be at least 90 feet and lot depth shall be at least 80 feet.**

1. In determining whether a lot complies with the minimum net lot area requirements, the following shall be excluded: the area between lateral lines of any such lot and any part of such lot which is part of a street.

B. *Street frontage.* No building will be permitted on a lot that does not front onto a street acceptable to the city as substantially complying with the standards established for streets.

##### C. *Yard requirements.*

1. *Minimum.* Except as otherwise provided in this section, each lot shall have front, rear, and side yards not less than the depths or widths following:
  - a. Front yard depth: 20 feet or more.
  - b. Rear yard depth: 25 feet or more.

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- c. Side yards shall be provided as follows:
  - i. *Total width.*
    - (a) For lots with a lot width of 90 feet or less, the sum of the side yards' width shall be at least 15 feet.
    - (b) For lots with a lot width of more than 90 feet, the sum of the side yards' width shall be a width that is equal to at least 17 percent of the lot width.
  - ii. *Minimum side yard width.* The minimum side yard width is five feet or 33 percent of the aggregate side yard total width, whichever is greater.
  - iii. *Variable side yard depth requirement.* For lots with an area of 6,000 square feet or more, the minimum side yard depth abutting an interior lot line shall be the greater of the minimum side yard depth required under subsection (C)(1)(c)(ii) of this section, or as follows:
    - (a) Single-family dwellings shall provide a minimum side yard depth of seven and one-half feet if the building:
      - (1) For nongabled roof end buildings, the height is more than 15 feet measured from existing or finished grade, whichever is lower, to the top of the exterior wall facade adjoining the side yard; or
      - (2) For gabled roof end buildings, the height is more than 18 feet measured from existing or finished grade, whichever is lower, to the top of the gabled roof end adjoining the side yard.
    - (b) Single-family dwellings with a height of more than 25 feet measured from the existing or finished grade, whichever is lower, to the top of the exterior wall facade adjoining the side yard shall provide a minimum side yard depth of ten feet.

**Note: Based on the proposed layout it doesn't appear the proposed lots meet the required setbacks.**

2. *Yard determination.*

- a. *Front yard.*
  - i. *Front yard — General.* For lots that are not corner lots or waterfront lots, the front yard shall extend the full width of the lot and is determined using the following sequential approach, in descending order of preference, until a front yard is established:
    - (a) The yard abutting an improved street from which the lot gains primary access.
    - (b) The yard abutting the primary entrance to a building.
    - (c) The orientation of buildings on the surrounding lots and the means of access to the lot.
  - ii. *Front yard — Corner lots.* On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot abutting a street shall be a side yard; provided:
    - (a) If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard.

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- iii. *Front yard — Waterfront lots.* On a waterfront lot, regardless of the location of access to the lot, the front yard may be measured from the property line opposite and generally parallel to the ordinary high water line.
    - iv. This section shall apply except as provided for in MICC 19.08.030(F)(1).
  - b. *Rear yard.* Except as allowed in subsections (C)(2)(a)(ii) and (iii) of this section, the rear yard is the yard opposite the front yard. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch. If this definition does not establish a rear yard setback for irregularly shaped lots, the code official shall establish the rear yard based on the following method: The rear yard shall be measured from a line or lines drawn from side lot line(s) to side lot line(s), at least ten feet in length, parallel to and at a maximum distance from the front lot line.
  - c. *Side yard.* Any yards not designated as a front or rear yard shall be defined as a side yard.
- 3. *Intrusions into required yards.*
  - a. *Minor building elements.*
    - i. Except as provided in subsection (C)(3)(a)(ii) of this section, porches, chimney(s) and fireplace extensions, window wells, and unroofed, unenclosed outside stairways and decks shall not project more than three feet into any required yard. Eaves shall not protrude more than 18 inches into any required yard.
    - ii. No penetration shall be allowed into the minimum side yard setback abutting an interior lot line except where an existing flat-roofed house has been built to within 18 inches of the interior side yard setback line and the roof is changed to a pitched roof with a pitch of 2:12 or steeper, eaves may penetrate up to 18 inches into the side yard setback.
  - b. *Hardscape and driveways.* Hardscape and driveways not more than 30 inches above existing grade or finished grade, whichever is lower, may be located in any required yard; provided, that driveways may exceed the 30-inch limit when a permit applicant demonstrates the proposed height is the minimum feasible to meet the standards in MICC 19.09.040.
  - c. *Fences, retaining walls and rockeries.* Fences, retaining walls and rockeries are allowed in required yards as provided in MICC 19.02.050.
  - d. *Garages and other accessory buildings.* Garages and other accessory buildings are not allowed in required yards, except as provided in MICC 19.02.040.
  - e. *Heat pumps, air compressors, air conditioning units, and other similar mechanical equipment.* Heat pumps, air compressors, air conditioning units, and other similar mechanical equipment may be located within any required yard provided they will not exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within three feet of any lot line.
  - f. *Architectural features.* Detached, freestanding architectural features such as columns or pedestals that designate an entrance to a walkway or driveway and do not exceed 42 inches in height are allowed in required yards.
  - g. *Other structures.* Except as otherwise allowed in this subsection (C)(3), structures over 30 inches in height from existing grade or finished grade, whichever is lower, may not be constructed in or otherwise intrude into a required yard.
- 4. *Setback deviation.* The code official may approve a deviation to front, side, and rear setbacks pursuant to MICC 19.15.040.

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D. *Gross floor area.*

1. Except as provided in subsection (D)(3) of this section, the gross floor area shall not exceed:
  - d. **R-15: 12,000 square feet or 40 percent of the lot area, whichever is less.**
2. *Gross floor area calculation.* The gross floor area is the sum of the floor area(s) bounded by the exterior faces of each building on a residential lot, provided:
  - a. The gross floor area shall be 150 percent of the floor area of that portion of a room(s) with a ceiling height of 12 feet to 16 feet, measured from the floor surface to the ceiling.
  - b. The gross floor area shall be 200 percent of the floor area of that portion of a room(s) with a ceiling height of more than 16 feet, measured from the floor surface to the ceiling.
  - c. Staircases shall be counted as a single floor for the first two stories accessed by the staircase. For each additional story above two stories, the staircase shall count as a single floor area. For example, a staircase with a ten-foot by ten-foot dimension that accesses three stories shall be accounted as 200 square feet (100 square feet for the first two stories, and 100 square feet for the third story).
  - d. For the purposes of calculating allowable gross floor area, lots created in a subdivision through MICC 19.08.030(G), Optional standards for development, may apply the square footage from the open space tract to the lot area not to exceed the minimum square footage of the zone in which the lot is located.
3. *Allowances.*
  - a. The gross floor area for lots with an area of 7,500 square feet or less may be the lesser of 3,000 square feet or 45 percent of the lot area; or
  - b. If an accessory dwelling unit is proposed, the 40 percent allowed gross floor area may be increased by the lesser of five percentage points or the actual floor area of the proposed accessory dwelling unit, provided:
    - i. The allowed gross floor area of accessory buildings that are not partially or entirely used for an accessory dwelling unit shall not be increased through the use of this provision;
    - ii. The lot will contain an accessory dwelling unit associated with the application for a new or remodeled single-family home; and
    - iii. The total gross floor area shall not exceed 4,500 square feet or 45 percent of the lot area, whichever is less.

E. *Building height limit.*

1. **Maximum building height. No building shall exceed 30 feet in height above the average building elevation to the highest point of the roof.**
2. **Maximum building height on downhill building facade. The maximum building facade height on the downhill side of a sloping lot shall not exceed 30 feet in height. The building facade height shall be measured from the existing grade or finished grade, whichever is lower, at the furthest downhill extent of the proposed building, to the top of the exterior wall facade supporting the roof framing, rafters, trusses, etc.**
3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections (E)(1) and (2) of this section; provided:
  - a. Solar panels shall be designed to minimize their extension above the maximum allowed height, while still providing the optimum tilt angle for solar exposure.
  - b. Rooftop railings may not extend above the maximum allowed height for the main structure.

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4. The formula for calculating average building elevation is as follows:

Formula: Average Building Elevation = (Weighted Sum of the Mid-point Elevations) ÷ (Total Length of Wall Segments)

Where: Weighted Sum of the Mid-point Elevations = The sum of: ((Mid-point Elevation of Each Individual Wall Segment) × (Length of Each Individual Wall Segment))

For example for a house with ten wall segments:

$$(A \times a) + (B \times b) + (C \times c) + (D \times d) + (E \times e) + (F \times f) + (G \times g) + (H \times h) + (I \times i) + (J \times j)$$

$$a + b + c + d + e + f + g + h + i + j$$

Where: A, B, C, D... = The existing or finished ground elevation, whichever is lower, at midpoint of wall segment.

And: a, b, c, d... = The length of wall segment measured on outside of wall.

F. Lot coverage—Single-family dwellings.

3. Lot coverage—Landscaping required.

- a. *Minimum area required.* Development proposals for single-family dwellings shall comply with the following standards based on the net lot area:

Lot Slope	Maximum Lot Coverage (house, driving surfaces, and accessory buildings)	Required Landscaping Area
Less than 15%	40%	60%
15% to less than 30%	35%	65%
30% to 50%	30%	70%
Greater than 50% slope	20%	80%

b. *Hardscape.*

- i. A maximum of nine percent of the net lot area may consist of hardscape improvements including, but not limited to, walkways, decks, etc., and provided:
- (a) The hardscape for lots with a net lot area of 8,400 square feet or less may be the lesser of 755 square feet or 12 percent of the net lot area.
- ii. Hardscape improvements are also permitted in the maximum lot coverage area established in subsection (F)(3)(a) of this section.

c. *Softscape and driveways.*

- i. The required landscaping area in subsection (F)(3)(a) of this section shall consist of softscape improvements, except where used for hardscape improvements pursuant to subsection (F)(3)(b) of this section.
- ii. Driveways and other driving surfaces are prohibited within the landscaping area. For example, a flat lot with a net area of 10,000 square feet shall provide a minimum 6,000 square feet of landscaped area. Up to 900 square feet of the landscaped area may be used for a walkway, patio, or deck or other hardscape area. The remainder of the area shall be used for softscape improvements, such as landscaping, tree retention, etc.

- d. Development proposals for a new single-family home shall remove Japanese knotweed (*Polygonum cuspidatum*) and Regulated Class A, Regulated Class B, and Regulated Class C weeds identified on the King County Noxious Weed list, as amended, from required landscaping areas established pursuant to subsection (F)(3)(a) of this section. New landscaping associated with new single-family home shall not incorporate any weeds identified on the King County Noxious Weed list, as amended. Provided, that removal

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shall not be required if the removal will result in increased slope instability or risk of landslide or erosion.

e. *Allowed adjustments.* A one-time reduction in required landscaping area and an increase in the maximum lot coverage are allowed, provided:

- i. The total reduction in the required landscaping area shall not exceed five percentage points, and the total increase in the maximum lot coverage shall not exceed five percentage points; and
- ii. The reduction in required landscaping area and increase in maximum lot coverage are associated with:
  - (a) A development proposal that will result in a single-story single-family dwelling with a wheelchair accessible entry path, and may also include a single-story accessory building; or
  - (b) A development proposal on a flag lot that, after optimizing driveway routing and minimizing driveway width, requires a driveway that occupies more than 25 percent of the otherwise allowed lot coverage area. The allowed reduction in the required landscaping area and increase in maximum lot coverage shall not exceed five percent, or the area of the driveway in excess of 25 percent of the lot coverage, whichever is less.

For example, a development proposal with a driveway that occupies 27 percent of the otherwise allowed lot coverage may increase the total lot coverage by two percent; and

iii. A recorded notice on title, covenant, easement, or other documentation in a form approved by the city shall be required. The notice on title or other documentation shall describe the basis for the reduced landscaping area and increased lot coverage.

G. *Parking.*

1. *Applicability.* Subsection (G)(2) of this section shall apply to all new construction and remodels where more than 40 percent of the length of the structure's external walls have been intentionally structurally altered.
2. *Parking required.*
  - a. Each single-family dwelling with a gross floor area of 3,000 square feet or more shall have at least three parking spaces sufficient in size to park a passenger automobile; provided, at least two of the stalls shall be covered stalls.
  - b. Each single-family dwelling with a gross floor area of less than 3,000 square feet shall have at least two parking spaces sufficient in size to park a passenger automobile; provided, at least one of the stalls shall be a covered stall.
3. No construction or remodel shall reduce the number of parking spaces on the lot below the number existing prior to the project unless the reduced parking still satisfies the requirements set out above.
4. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient by the code official for the use occurring on the lot; provided, any lot that contains ten or more parking spaces shall also meet the parking lot requirements set out in appendix A of this development code.

H. *Easements.* Easements shall remain unobstructed.

1. *Vehicular access easements.* No structures shall be constructed on or over any vehicular access easement. A minimum five-foot yard setback from the edge of any easement that affords or could afford vehicular access to a property is required for all structures; provided, that

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improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the five-foot yard setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians.

2. *Utility and other easements.* No structure shall be constructed on or over any easement for water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within the language of the easement or is mutually agreed in writing between the grantee and grantor of the easement.
- J. *Building pad.* New buildings shall be located within a building pad established pursuant to chapter 19.09 MICC. Intrusions into yard setbacks authorized pursuant to MICC 19.02.020(C)(3) may be located outside of the boundaries of the building pad.

### **SHORT SUBDIVISION**

Please refer to MICC 19.08.020 - Application procedures and requirements for long and short subdivisions.

#### **MICC 19.08.030 Design standards.**

- A. *Compliance with other laws and regulations.* The proposed subdivision shall comply with all other chapters of this title; the Shoreline Management Act; and other applicable city, state, and federal legislation.
- B. *Public improvements.*
  1. The subdivision shall be reconciled as far as possible with current official plans for acquisition and development of arterial or other public streets, trails, public buildings, utilities, parks, playgrounds, and other public improvements.
  2. If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city shall adopt the designated name.
- C. *Control of hazards.*
  1. Where the project may adversely impact the health, safety, and welfare of, or inflict expense or damage upon, residents or property owners within or adjoining the project, other members of the public, the state, the city, or other municipal corporations due to flooding, drainage problems, critical slopes, unstable soils, traffic access, public safety problems, or other causes, the city council in the case of a long subdivision, or the code official in the case of a short subdivision, shall require the applicant to adequately control such hazards or give adequate security for damages that may result from the project, or both.
  2. If there are soils or drainage problems, the city engineer may require that a Washington registered civil engineer perform a geotechnical investigation of each lot in the project. The report shall recommend the corrective action likely to prevent damage to the areas where such soils or drainage problems exist. Storm water shall be managed in accordance with chapter 15.09 MICC and shall not increase likely damage to downstream or upstream facilities or properties.
  3. Alternative tightline storm drains to Lake Washington shall not cause added impact to the properties, and the applicant shall submit supportive calculations for storm drainage detention.
- D. *Streets, roads and rights-of-way.*
  1. The width and location of rights-of-way for major, secondary, and collector arterial streets shall be as set forth in the comprehensive arterial plan.
  2. Public rights-of-way shall comply with the requirements set out in MICC 19.09.030.
  3. Private access roads shall meet the criteria set out in MICC 19.09.040.

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4. Streets of the proposed subdivision shall connect with existing improved public streets, or with existing improved private access roads subject to easements of way in favor of the land to be subdivided.

E. *Residential lots.*

1. The area, width, and depth of each residential lot shall conform to the requirements for the zone in which the lot is located. Any lot which is located in two or more zones shall conform to the zoning requirements determined by the criteria set out in MICC 19.01.040(G)(2).
2. Each side line of a lot shall be approximately perpendicular or radial to the center line of the street on which the lot fronts.
3. The proposed subdivision shall identify the location of building pads for each proposed lot per MICC 19.09.090. No cross-section dimension of a designated building pad shall be less than 20 feet in width.
4. The proposed subdivision shall incorporate preferred development practices pursuant to MICC 19.09.100 where feasible.
5. The proposed subdivision shall be designed to comply with the provisions of chapter 19.10 MICC.

F. *Design standards for special conditions.*

1. Subdivisions abutting an arterial street as shown on the comprehensive arterial plan shall be oriented to require the rear or side portion of the lots to abut the arterial and provide for internal access streets.
2. Where critical areas meeting the criteria set out in chapter 19.07 MICC are present within the subdivision, the code official or city council may:
  - a. Require that certain portions of the long subdivision or short subdivision remain undeveloped with such restrictions shown on the official documents;
  - b. Increase the usual building set-back requirements; and/or
  - c. Require appropriate building techniques to reduce the impact of site development.

G. *Optional standards for development.* In situations where designing a subdivision to the requirements of subsections A through F of this section would substantially hinder the permanent retention of trees; interfere with the protection of critical areas; preclude the provision of parks, playgrounds, or other noncommercial recreational areas for neighborhood use and enjoyment; or negatively impact the physiographic features and/or existing ground cover of the subject area, the applicant may request that the project be evaluated under the following standards:

1. The use of the land in the long subdivision or short subdivision shall be one permitted in the zone in which the long subdivision or short subdivision is located.
2. The number of lots shall not exceed the number that would otherwise be permitted within the area being subdivided, excluding the shorelands part of any such lot and any part of such lot that is located in a street.
3. An area suitable for a private or public open space tract shall be set aside for such use.
4. The lots may be of different areas, but the minimum lot area, minimum lot width, and minimum lot depth shall each be at least 75 percent of that otherwise required in the zone in which the long subdivision or short subdivision is located. In no case shall the lot area be less than 75 percent of that otherwise required in the zone. Lot size averaging must be incorporated if lot width or depth requirements are 75 percent of the minimum that would otherwise be required for the zone without utilizing the optional development standards. Any designated open space or recreational tract shall not be considered a lot.
5. The ownership and use of any designated open space or recreational tract, if private, shall be shared by all property owners within the long subdivision or short subdivision. In addition, a

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right of entry shall be conveyed to the public to be exercised at the sole option of the city council if such area shall cease to be an open space or recreational tract.

6. The open space or recreational tract must remain in its approved configuration and be maintained in accordance with approved plans. Any deviation from the foregoing conditions must receive expressed approval from the hearing examiner.

**Plat improvements.**

Please refer to the requirements in MICC 19.08.040 for plat improvements.

**Final plats.**

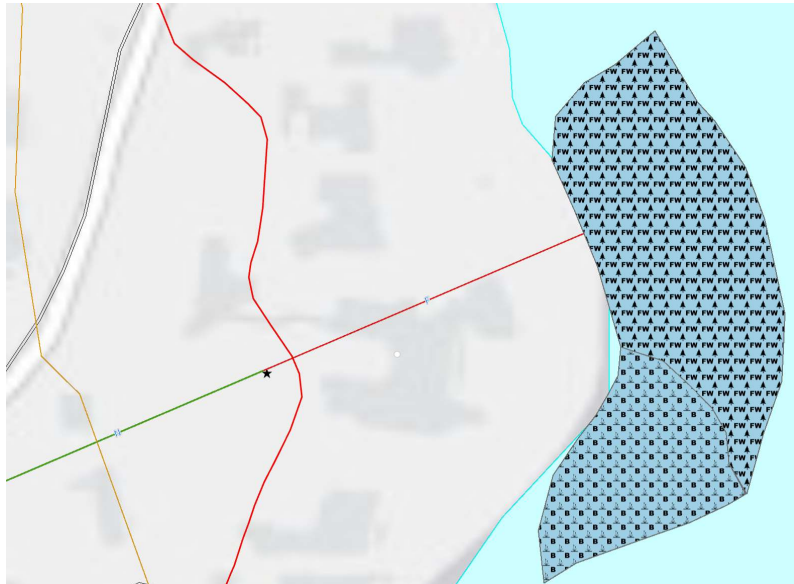
Please refer to MICC 19.08.050 for requirements for final plat.

**CRITICAL AREAS**

**Chapter 19.07 MICC Critical Areas**

A. Critical area constraints (on and off-site)

1. Mapped critical areas include: Geologically Hazardous Areas (Potential Slide Area and Seismic Hazards) [MICC 19.07.160](#), Watercourses (Type-F) offsite [MICC 19.07.180](#), and Wetlands (Waterward of the OHWM and potentially at the shoreline) [MICC 19.07.190](#).
2. FPARS Mapping shows a Type F stream bisecting the subject property and not the property to the south.
3. According to FPARS Mapping, there appears to be a Type B Wetland as defined in WAC 222-16-035 located waterward of the OHWM. Additionally, a Forested Wetland as defined in WAC 222-16-035 is also immediately waterward of the OHWM.



4. City mapping indicates a type F Watercourse along the southern property line. In order to change a classification a Critical Area Review 1 (CAR1) would be required.
5. A critical area study shall be required when a development proposal will result in an alteration to one or more critical areas or critical area buffers or when required to determine the potential impact to a critical area. Refer to [MICC 19.07.110](#) for critical area study requirements. At a minimum a critical area study shall be required for geological hazardous areas, watercourses,

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and wetlands. A biological assessment will likely be required for any work located waterward of the OHWM.

6. Geotechnical reports must address the criteria in [MICC 19.07.160](#), which include an analysis documenting that the subject property, neighboring properties, and other critical areas will not be adversely impacted. A statement of risk must also be provided. Please review this code section for full details.
7. GIS shows there's a high likelihood that wetlands are present on the site. The applicant will need to do a wetland reconnaissance on the site.
8. There's a Type F watercourse to the south. Its 100-foot buffer extends about halfway across the lot, totally encumbering Lot 3 and extending into Lot 2. Even with a buffer reduction, the applicant would likely only be able to get 3 lots on this site at most.

## **SHORELINE DEVELOPMENT**

### **Chapter 19.13 Shoreline Master Program**

1. General Notes:
  - a. According to FPARS Mapping, there appears to be a Type B Wetland as defined in WAC 222-16-035 located waterward of the OHWM. Additionally, a Forested Wetland as defined in WAC 222-16-035 is also immediately waterward of the OHWM.
  - b. The shoreline jurisdiction extends from the OHWM landward 200-feet.
  - c. Development is limited within 50 feet of the Ordinary High Water Mark (OHWM): 10% lot coverage and impervious surface is allowed within 0-25 feet of OHWM and 30% is allowed within 25-50 feet from the OHWM).
  - d. No structures are allowed within 25 of the OHWM.
  - e. During building permit application phase of the development, apply for a Shoreline Substantial Development Permit or a Shoreline Exemption Permit, if you can demonstrate that the proposed development meets one of the criteria in [WAC 173-27-040](#) for developments exempt from substantial development permit requirement. Include a signed and notarized Shoreline Exemption Affidavit with the Shoreline Exemption Permit application.
  - f. A Shoreline Substantial Development Permit may be required.
2. State Environmental Policy Act (SEPA) Review
  - a. The proposed subdivision may be SEPA exempt, but any work waterward of the OHWM requires SEPA review unless it is exempt pursuant to WAC 197-11-800.
  - b. If the scope of work changes, SEPA Review may be required. Please refer to WAC 197-11-800 or consult with planning staff to SEPA requirements.
  - c. If wetlands or watercourses are found on site (i.e. lands covered by water), SEPA Review will likely be required.
3. Underlying Plat limits
  - a. Conditions: None found at this time.
  - b. Covenants: None found at this time.
  - c. Easements: See below.
4. Non-conforming issues: See Staff Response to Question 1 above.
5. Easements:
  - a. Subject property contains a drainage easement and a utility easement.
  - b. Vehicular Access Easements. No structures shall be constructed on or over any vehicular access easement. A minimum five-foot yard setback from the edge of any easement that

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- affords or could afford vehicular access to a property is required for all structures; provided, that improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the five-foot yard setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians.
- c. Utility and Other Easements. No structure shall be constructed on or over any easement for water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within the language of the easement or is mutually agreed in writing between the grantee and grantor of the easement.
6. Impact fees
    - a. Future construction on the vacant/new lot(s) resulting from the proposed subdivision will need to pay transportation, school, and park impact fees.
    - b. Current rates are:
      - i. Transportation - \$4,153 per lot
      - ii. School – N/A
      - iii. Parks - \$6,073 per lot
    - c. Note that fees are due at the time they are assessed--they do not vest to the time of complete subdivision or building permit application.
  7. Transportation Concurrency: Please apply for a transportation concurrency certificate at the same time as the subdivision.
  8. Vesting: Please see the standards in MICC 19.15.170.
  9. Application fees
    - a. Deposit due at time of application
    - b. Review time is billed hourly against the deposit; additional fees may be requested if additional review time is required.
    - c. When third-party technical review is required (e.g. geotechnical, wetland, watercourse etc.), this is billed separately, in addition to staff review time.
  10. Land Use Application Process and Estimated Timeline:
    - a. Required land use approvals:
      - i. Shoreline Substantial Development (if certain development activities take place in the shoreline environment);
      - ii. Short Subdivision;
      - iii. **Critical Areas Review 1 (CAR1);**
      - iv. Critical Area Review 2 (CAR2);
      - v. SEPA;
      - vi. Site Development Permit; and
      - vii. Final Plat.
    - b. Consolidated Review: MICC 19.15.030
    - c. Summary of procedural steps
      - i. Pre-Application meeting
      - ii. Submit application electronically
      - iii. Application Completeness Check
      - iv. Notice of Application (incl. public notice via sign on site, mailing, notice in bulletin) beginning 30-day comment period; review begins
      - v. Review comments may be sent out if needed
      - vi. Notice of Decision
      - vii. Appeal period
      - viii. Final Plat review and recording

**PLEASE NOTE:** These pre-application meeting notes have been prepared to assist the applicant in completing and submitting the application in a manner that complies with applicable development standards and permit processing requirements. Although care has been taken, in the event of a conflict between these notes and any applicable law, regulation or decision criteria, the latter shall prevail. The City of Mercer Island makes no warranty of any kind to the accuracy of the information contained in these notes. The information herein notwithstanding, it is the applicant's sole duty to ensure that the proposed development complies with all applicable laws, regulations and decision criteria. Neither the discussions nor the notes provided at the pre-application meeting shall bind the City in any manner or prevent the City's future application or enforcement of all laws, regulations and decision criteria.

- d. Land use approvals are valid for a period of 5 years from the date of approval. Pursuant to [MICC 19.15.150](#), a final plat application meeting all requirements of this chapter shall be submitted to the code official and recorded within five years of the date of preliminary plat approval.

For more information on Land Use and Planning please refer to this useful webpage:

<https://www.mercerisland.gov/cpd/page/land-use-application-forms-and-submittal-requirements>

**ADDITIONAL COMMENTS:**

1. Not sure that the proposed side lot lines could be considered parallel or radial to the street the lots face (19.08.030(E)(2)). The applicant will need to justify how the proposed lot lines meet code standards or alter them.
2. Per MICC 19.08.030(E)(4) and 19.09.100(A): Development should use common access and utility corridors. This proposal does so to an extent, but the common portion of the driveway should extend as far to the east as possible. This would probably also reduce the development’s lot coverage.
3. Building pads need to exclude critical areas and their buffers and setbacks. They also need to exclude the driplines of retained trees (it looks like there aren’t any retained trees. They’ll need to revisit that.).
4. Accessory structures are limited to 25% of the size of the total GFA allowed on the lot. It looks like the existing sports pavilion barely meets that requirement. It would count against the total GFA for the lot, though.
5. New docks could be built on Lots 2 and 3, but the shown location of the dock on Lot 3 would be really close to the neighboring dock to the south. They would likely need to reconfigure that proposal.
6. Any development on the waterfront lots would be subject to the shoreline planting standards of 19.13.050(K)(4). This would be required during building permit review.

**Pre-Application Fees:**

The minimum fee for the pre-application meeting must be paid to initiate the pre-application process. If staff time exceeds the minimum hours allotted, the applicant will be invoiced via email for additional staff hours at the current hourly rate. Note: All involved staff members track time spent researching and preparing, attending the meeting, corresponding, responding to questions pre and post meeting, and/or on any other activity related to the pre-application process for the project. Applicants who continue to discuss the meeting with staff should expect to be invoiced for additional staff time.

<b>2023 Pre-application Fees</b>	
<p><b>Type 1 Pre-Application Meeting:</b>            \$954 minimum fee, plus charges for any staff time spent on the pre-application over 6 hours. Any additional staff time is charged at a rate of \$159/hour.</p>	<p><b>Type 2 Pre-Application Meeting:</b>            \$1,908 minimum fee, plus charges for any staff time spent on the pre-application over 12 hours. Any additional staff time is charged at a rate of \$159/hour.</p>
<p><i>Please Note: Fees will continue to accrue, post pre-application meeting, in situations where the applicant requests follow up or has additional questions that require additional staff time. Fees will be assessed at the hourly staff rate in place at the time of accrual and invoiced via email.</i></p>	

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Best regards,

*Ryan Harriman*

Ryan Harriman, EMPA, AICP  
Planning Manager  
Community Planning & Development  
City of Mercer Island

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October 31, 2023

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